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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,472	02/06/2001	David Howard	UNITHERM-2(00-627)	4276

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6  
EXAMINER

YEUNG, GEORGE CHAN PUI

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/777,472

Applicant(s)

Howard

Examiner

George C. Young

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on June 10, 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1 and 3-28 ☒ are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1 and 3-28 ☒ are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Journal of Food Science. The Journal of Food Science discloses a process for reducing bacterial contamination on the surface of meat products wherein a surface of a meat product is treated with a heat source such as a steam oven at a temperature of 115-136<sup>0</sup>C (239-277<sup>0</sup>F) for 30-40 seconds so as to achieve a 4 log reduction in bacterial counts on the surface without severely affecting color or weight. The Journal of Food Science also discloses that after long-term storage (up to 70 days) at 19<sup>0</sup>C, levels of bacteria on inoculated meat product remained reduced and there was no difference between treated and untreated meat product in color or weight. It is obvious that the heat treatment process of the Food-Science Journal would inherently be conducted in a manner effective to bring the temperature of the food product surface

to at least 160<sup>0</sup>F without substantially changing the internal core temperature of the meat product since the meat product is treated in the same manner as claimed.

Claims 6-8, 14-16 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Journal of Food Science as applied to claims 1, 3-5 and 10-13 above, and further in view of Singh. It would have been obvious to substitute the infrared oven of Singh for the steam oven in the Food-Science Journal since it is a mere substitution of one form of heat source for another for heat treating a meat product in the absence of any new or unexpected results. Additionally, it would have been obvious to cook the meat product of the Food-Science Journal prior to the heat treatment since Singh shows the conventional expedient of precooking a meat product followed by treating the precooked meat product with infrared radiation energy.

Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Journal of Food Science as applied to claims 1, 3-5 and 10-13 above, and further in view of Taguchi et al. It would have been obvious to package the heat-treated meat product of the Food-Science Journal since Taguchi et al show the conventional expedient of packaging sterilized solid foods within less than 10 minutes after the heat treatment.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singh. Singh discloses a process for heating a precooked meat product, the process

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comprises the steps of placing the precooked meat product on a continuously moving conveyor, transporting the precooked meat product into an infrared oven having an operating temperature of up to 290<sup>0</sup>C (554<sup>0</sup>F), and heating a surface of the precooked meat product in the infrared oven for a time sufficient to bring the surface to a temperature of greater than 60<sup>0</sup>C (140<sup>0</sup>F). It would have been obvious to heat the surface of Singh's precooked meat product in the infrared oven for a time sufficient to bring the surface to a temperature of at least 160<sup>0</sup>F since it is an obvious matter of optimizing the sterilization process, i.e., the higher the surface temperature, the higher the bacterial destruction. With regard to claims 19 and 20, it would have been obvious to operate the infrared oven of Singh at a temperature of 700<sup>0</sup>F or 750<sup>0</sup>F since it is an obvious matter of optimizing the heat treatment process, i.e., the higher the heat treatment temperature, the shorter the heat treatment time.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Singh as applied to claims 18-21 above, and further in view of Taguchi et al. Additionally, it would have been obvious to package the heat-treated precooked meat product of Singh since Taguchi et al show the conventional expedient of packaging sterilized solid foods within less than 10 minutes after the heat treatment.

Claim 26 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Journal of Food Science.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Journal of Food Science. It is obvious that the surface of Journal's meat product would inherently be heated to a temperature of at least 160<sup>0</sup>F since the meat product is treated in the same manner as claimed.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Journal of Food Science in view of Taguchi et al. It would have been obvious to package the heat-treated meat product of the Food-Science Journal since Taguchi et al show the conventional expedient of packaging sterilized solid foods within less than 10 minutes after the heat treatment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner George C. Yeung whose telephone number is (703) 308-3848. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

G. C. Yeung/mn  
September 8, 2003



GEORGE C. YEUNG  
PRIMARY EXAMINER